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Keith A. Ranieri

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EXAMINER

LEIVA, FRANK M

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/046,101	Applicant(s) RANIERE, KEITH A.	
	Examiner FRANK M. LEIVA	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-80 and 93-164 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-80 and 93-164 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgements

1. The examiner acknowledges claim amendments filed 24 December 2007, including independent amended claims 1, 41, 93 and 124. Remaining claims still pending 1-80 and 93-164.

Response to Arguments

2. Applicant's arguments filed 24 December 2007 regarding 35 U.S.C §112 rejection has been fully considered but is not persuasive For the following reasons:

3. Page 34 of applicant's remarks (*With respect to group (a) claims 22, 62, 65, 105, and 136, the Examiner alleges that the recitations "adapted to guarantee that the player cannot lose" referenced within a game of uncertain outcome is contradictory*). The examiner points to current amendment to claim 22 where in the player has good odds to have a winning outcome, but that is a far cry from providing a guarantee of winning outcomes, mostly since game PAR calculations are based upon 10,000 handle pulls or more, and are just an average of the total play. Any player may enter an establishment and lose \$100.00 even on a game designed with a 101% payback. To say that a game has a 101% payback is not the same as guaranteeing that players will win every time. The applicant points to "statistical rate of winning", to define a game of uncertain outcome, but as stated, statistical percent of win is not a guarantee.

4. Applicant's arguments with respect to claims 1-80 and 93-164 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112 1st paragraph

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 22, 62, 65, 105, and 136 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 22, 62, 65, 105, and 136 recite, “adapted to guarantee that the player cannot lose”, yet the game is of uncertain outcome, these are contradicting terms.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 1-21, 26-34, 37, 41-61, 66-74, 77, 93-104, 109-117, 120, 124-135, 140-148, 151 and 155-159 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weiss (US 6,511,377 B1).**

9. **Regarding claims 1, 2, 7, 8, 41-42, 47-48, 93, 95-96, 124, 126-127 and 155;** Weiss discloses:

An entrance-exchange structure, comprising: at least one player's initial betting capital; scrip; and a game of uncertain outcome adapted to be played by at least one player, (col. 3:40-56); wherein a house is adapted to pay a player of the at least one player

a takehome in a currency for a win of the game of uncertain outcome by the player based on betting by the player of the at least one player's initial betting capital, and wherein the currency is selected from the group consisting of cash plus scrip and scrip, (col. 3:40-67 and 14:9-11), where all winnings and accumulated scrip can be deposited in the player's account and redeemed for currency.

Wherein at least one vendor exists such that the at least one vendor is selected from the group consisting of a house vendor, N outside vendors such that N is at least 1, and the house vendor plus the N outside vendors; (col. 20:19-38) where there is a plurality of vendors in the casino establishments some of which are house vendors such as hotel services and others outside vendors such as restaurants and gift shops; wherein if the at least one vendor includes the house vendor, then a player may exchange a portion of the scrip at a scrip-to-items exchange rate $E^{S \rightarrow 1}_0$ for at least one item provided by the house vendor; (col. 4:21-32 and col. 26:3-6); and wherein if the at least one vendor includes the N outside vendors, then the player may exchange the scrip with the outside vendor V_i at a scrip-to-items exchange rate $E^{S \rightarrow 1}_i$ for at least one item provided by the outside vendor V_i such that i is selected from the group consisting of 1, 2, ..., and N, and the outside vendor V_i may exchange the scrip with the house for cash at the scrip-to-cash exchange rate $E^{S \rightarrow C}_i$ such that i is selected from the group consisting of 1, 2, ..., and N, (col. 4:21-32 and col. 26:3-6) where the player can redeem player points for perquisite dollars at a different exchange rate than regular dollars to be used at house or outside vendors inside the casino establishment. It is also obvious to one of ordinary skill in the art to recognize that it is well-known in the art to discount meals and services to players who are redeeming their points for goods. It has been well practiced that a player will benefit from paying their meals with comp points rather than redeem them into cash to pay for a meal in the casino. The average rate of points to cash in any casino is about 1000 points for dollar where while the average meal for one guest would only cost 2000 points, a considerable benefit that the casino offers in conjunction with the vendors to keep players in the casino instead of leaving with the dollars earned.

Wherein if the at least one vendor includes the N outside vendors, then N is at least 2 and $E^{S \rightarrow 1}_i$ is independent of i such that $E^{S \rightarrow 1}_i$ is constant, for $i = 1, 2, \dots$, and N, and

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wherein if the at least one vendor includes the N outside vendors, then N is at least 2 and $E^{S \rightarrow C}_i$ is independent of i such that $E^{S \rightarrow C}_i$ is constant, for $i = 1, 2, \dots$, and N, (col. 30:1-6), where the exchange rate is assigned a value the value independent to the number of vendors.

10. **Regarding claims 3-6, 43-46, 94 and 125;** Weiss discloses wherein the at least one vendor consists of the house vendor; wherein the at least one vendor consists of the N outside vendors; wherein the at least one vendor consists of the house vendor plus the N outside vendors; and

wherein if the at least one vendor includes the N outside vendors, then two or more outside vendors of the N outside vendors do not provide a same or essentially similar item or items in exchange for the scrip, (col. 20:19-38), where the establishment includes a series of house owned vendors and outside vendors, describing a plurality of vendors each having similar and different products and services.

11. **Regarding claims 9, 15, 49, 55, 97 and 128;** Weiss discloses wherein if the at least one vendor includes the N outside vendors then $\Phi_{P,i} > 0$, and wherein ($\Phi_{P,i}$ is a percent profit for the player in relation to the outside vendor V_i , for $i = 1, 2, \dots$, and N, (col. 30:1-6 and col. 4:21-32) where the establishment is capable to set up the rate of exchange to provide a degree of profit or enhanced entertainment value with the gained perquisites.

12. **Regarding claims 10-11, 16, 50-51, 56, 98-99 and 129-130;** Weiss discloses wherein if the at least one vendor includes the N outside vendors then $\Phi_{H,i} > 0$, and wherein ($\Phi_{H,i}$ is a percent profit for the house in relation to the outside vendor V_i , for $i = 1, 2, \dots$, and N; and wherein if the at least one vendor includes the N outside vendors then $\Phi_{V,i} > 0$, and wherein ($\Phi_{V,i}$ is a percent profit for the outside vendor V_i , for $i = 1, 2, \dots$, and N, (col. 30:1-6) where it is obvious to one of ordinary skill to design a system of exchange that benefits the establishment and all its vendors house or outside. Businesses exist to create profit by providing entertainment services to the guests whereby the guests profits from.

13. **Regarding claims 12-13, 18-21, 26-27, 52-53, 58-61, 66-67, 100-101, 103-104, 109-110, 131-132, 134-135 and 140-141;** Weiss discloses wherein if the at least one vendor includes the N outside vendors, then the game of uncertain outcome is a positive sum game in relation to a subset of the N outside vendors; and wherein if the at least one vendor includes the N outside vendors, then the game of uncertain outcome is a positive participant game in relation to a subset of the N outside vendors, (col. 20 19-38), where the establishment contains house and outside vendors all of which participating in commerce according to the positive sum doctrine of business in which all participants have something to gain in the relationship.

14. **Regarding claims 14, 17, 28, 54, 57, 68, 102, 111, 133 and 142;** Weiss discloses wherein if the at least one vendor includes the N outside vendors then two and only two of $\Phi_{P,i}$, $\Phi_{V,i}$, and $\Phi_{H,i}$ are positive, wherein $\Phi_{P,i}$ is a percent profit for the player in relation to the outside vendor V_i , wherein $\Phi_{V,i}$ is a percent profit for the outside vendor V_i , and wherein $\Phi_{H,i}$ is a percent profit for the house in relation to the outside vendor V_i , for $i = 1, 2, \dots$, and N, (col. 20:19-38 and col. 30:1-6), wherein all participants of a commercial venture are in it to obtain profit and the amount of profit is governed by each participant's economic needs.

15. **Regarding claims 29, 69, 112 and 143;** Weiss discloses wherein the game of uncertain outcome is adapted for sequential betting by the player when the game of uncertain outcome is played by the player, wherein the takehome to the player from the house is adapted to provide the player with an expected takehome of C dollars of cash and S units of scrip for each dollar bet such that $0 < C < 1$ and $S > 0$, (col. 3:40-56) where the player's betting is tracked and the takehome in perquisite, comps and dollar value points is calculated using the sequential betting of the player during the entire time in the establishment.

16. **Regarding claims 30, 70, 113 and 144;** Weiss discloses wherein S/C is constant, (col. 30:1-6) wherein the value for redemption is defined.

17. **Regarding claims 31, 71, 114 and 145;** Weiss discloses wherein the betting by the player comprises betting by cash, cash equivalent, bettable scrip, or a combination of thereof, (col. 3:27-39).

18. **Regarding claims 32, 72, 115 and 146;** Weiss discloses wherein the betting by the player comprises betting by bettable scrip, (col. 3:40-56).

19. **Regarding claims 33, 73, 116 and 147;** Weiss discloses wherein the bettable scrip is conditionally bettable, (col. 3:40-56), bettable according to the conversion points to dollars.

20. **Regarding claims 34, 74, 117 and 148;** Weiss discloses wherein the house comprises a casino, (col. 3:2-5).

21. **Regarding claims 37, 77, 120, 151 and 156-157;** Weiss discloses wherein the game of uncertain outcome comprises a casino game, wherein the participant comprises a player, (col. 3:2-5).

22. **Regarding claims 158-159;** Weiss discloses wherein the entrance comprises a placing of a bet, (col. 5:40-45), or a payment of a fee, (col. 12:11-15).

23. **Claims 22-25, 35-36, 38-40, 62-65, 75-76, 78-80, 105-108, 118-119, 121-123, 136-139, 149-150, 152-154 and 160-164 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weiss as applied to claims 1, 2, 41, 93, 124 and 155, above, and further in view of Walker 276'.**

24. **Regarding claims 22, 62, 65, 105 and 136;** Weiss discloses all the limitations of claims 1, 2, 41, 93, 124 and 155, yet Weiss fails to disclose a guarantee to the player;

Walker 276' discloses wherein the house is adapted to guarantee that in the takehome the player cannot lose more than P percent of the player's initial betting capital, and wherein P is in a range of $0 < P < 100$ by allowing conversion of scrip to cash equivalent to P percent of the player's initial betting capital, (¶ [0164, 0173, 0175 and 0177]) where the casino guarantees the player an average positive outcome according to the probabilities in 1/10,000 games played, where the player may lose a percentage of the original outcome that percentage being less than 100 percent.

25. **Regarding claims 23, 63, 106 and 137;** Weiss discloses all the limitations of claims 1, 2, 41, 93, 124 and 155, yet Weiss fails to disclose a guarantee to the player; Walker 276' discloses wherein P does not exceed 50, (¶ [00176-0180]), as discussed by Walker 276', the percentage value is arbitrary according to the house's wishes to keep the player in the house longer rather than shorter, nevertheless is a design choice.

26. **Regarding claims 24, 64, 107 and 138;** Weiss discloses all the limitations of claims 1, 2, 41, 93, 124 and 155, yet Weiss fails to disclose a guarantee to the player; Walker 276' discloses wherein the house is adapted to guarantee that the takehome of the player's initial betting capital must increase by at least Q percent, and wherein $Q > 0$, wherein the value of scrip is adjustable by the house to provide the increase by at least O percent, (¶ [0022-0023, 0085, 0132]) where the house guarantees the player a positive game outcome, that is an outcome larger than the initial wagering money.

27. **Regarding claims 25, 108 and 139;** Weiss discloses all the limitations of claims 1, 2, 41, 93, 124 and 155, yet Weiss fails to disclose a guarantee to the player; Walker 276' discloses wherein if at least one vendor includes the house vendor then the house implements guaranteeing the Q percent by adjustment of a scrip-to-items exchange ratio $E^{S \rightarrow I}_0$. As described in Weiss (col. 30:1-6) and in addition the Walker 276' (¶ [022-0023]), it is obvious to one of ordinary skill in the art to deduce that if Weiss is going to guarantee earnings to the players, that Weiss would include the calculation of gratuities into the

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equation and adjust the rate of scrip to items so as not to make a hole in the houses gains and still giving the player a guaranteed earning.

Walker

28. **Regarding claims 35-36 75-76, 118-119 and 149-150;** Weiss discloses wherein the house comprises a computer casino; and wherein the player interacts with the computer casino over a data communication medium selected from the group consisting of an Internet, an Intranet, cable television network, a telephone network, a wide area network, a satellite network, a short wave radio network, and a combination thereof, (¶ [0029-0030]) where Walker 276' intruduces the use of the Internet as a method of communication, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to create the very well-known "virtual casino", with the teachings of Weiss and Walker 276', that would predictably yield an Internet base casino with player tracking incentives and accumulated points redeemable in goods and services offered by the advertisement shown in the casino web page.

29. **Regarding claims 38-40, 78-80, 121-123, 152-154 and 161-162;** Weiss discloses all the limitations of claims 1, 2, 41, 93, 124 and 155, yet Weiss fails to disclose all the other casino game embodiments available; Walker 276' discloses wherein the game of uncertain outcome includes an event selected from the group consisting of a lottery and a sporting event; wherein the game of uncertain outcome comprises a game of chance; and wherein the game of uncertain outcome comprises a game of skill, (¶ [0039]). It would have been obvious to one of ordinary skill in the art to apply Weiss invention to all of the well-known types of gaming machines in the casino establishment.

30. **Regarding claims 160, 163 and 164;** Weiss discloses all the limitations of claims 1, 2, 41, 93, 124 and 155, yet Weiss fails to disclose a trigger event; Walker 276' discloses where the at least one potential outcome comprises a win of the game; wherein the entrance comprises an action; and wherein the action satisfies one or more criteria, (¶ [0160-0161]). It would have been obvious to one of ordinary skill in the art to after reading

Walker 276' to try introducing a trigger criteria to entice the player into participating in the entrance-exchange program, yielding the predictable result as described in Walker 276'.

Conclusion

31. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANK M. LEIVA whose telephone number is (571)272-2460. The examiner can normally be reached on M-Th 9:30am - 5:pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert E Pezzuto/
Supervisory Patent Examiner, Art Unit 3714

FML 05/15/2008